

726.24 Elder abuse — initiation of charges — penalty.

1. As used in [this section](#) unless the context otherwise requires:

a. “Abuse” means the infliction of physical harm or the deprivation of goods or services that are necessary to meet essential needs or to avoid physical harm or psychological harm.

b. “Caregiver” means an individual who has the responsibility for the care or custody of an older individual, whether voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and includes but is not limited to a family member or other individual who provides, whether on the individual’s own behalf or on behalf of a public or private entity, compensated or uncompensated care to an older individual.

c. “Elder abuse” means the abuse, emotional abuse, neglect, isolation, or sexual exploitation of an older individual. “Elder abuse” does not include any of the following:

(1) Circumstances in which the older individual declines medical treatment if the older individual holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the older individual’s caregiver or fiduciary, acting in accordance with the older individual’s stated or implied consent, declines medical treatment if the older individual holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(3) The withholding or withdrawing of health care from an older individual who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the older individual or at the request of the older individual’s next of kin, attorney in fact, or guardian pursuant to the applicable procedures under [chapter 125, 144A, 144B, 222, 229, or 633](#).

d. “Emotional abuse” means the willful or reckless infliction of psychological harm, emotional or mental anguish, or the use of physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care.

e. “Fiduciary” means a guardian, trustee, executor, administrator, receiver, conservator, attorney in fact, or any person, whether individual or corporate, acting in any fiduciary capacity for or on behalf of any older individual.

f. (1) “Isolate” or “isolation” means preventing an older individual from having contact with another person by any of the following:

(a) Intentionally preventing the older individual from receiving visitors, mail, or telephone calls, including, without limitation, communicating to a person who comes to visit the older individual or a person who telephones the older individual that the older individual is not present or does not want to meet with or talk to the visitor or caller while knowing that the statement is false, contrary to the express wishes of the older individual, and intended to prevent the older individual from having contact with the visitor.

(b) Physically restraining the older individual to prevent the older individual from meeting with a person who comes to visit the older individual.

(c) Permitting any of the acts described in subparagraph division (a) or (b) to be committed against an older individual.

(2) “Isolate” or “isolation” does not mean an act intended to protect the property or physical or mental welfare of the older individual or an act performed pursuant to the instructions of a physician of the older individual.

g. “Neglect” means the failure of a caregiver or fiduciary to provide adequate food, shelter, clothing, supervision, physical or mental health care, and goods or services necessary to maintain the life, health, or safety of an older individual, which if not provided would constitute denial of critical care.

h. “Older individual” means a person sixty years of age or older who is unable to protect himself or herself from elder abuse as a result of a mental or physical condition or because of a personal circumstance which results in an increased risk of harm to the person.

i. “Older individual assault” means the same as defined in [section 708.2D](#).

j. “Physical harm” means bodily injury, bodily pain, impairment, or disease.

k. “Psychological harm” means an injury to the intellectual functioning or emotional state of an older individual as evidenced by an observable or measurable reduction in the older

adult's ability to function within that individual's customary range of performance and that individual's behavior.

l. "Serious injury" means the same as defined in [section 702.18](#).

m. "Sexual exploitation" means any sexual contact against an older individual's will. This includes acts in which the older individual is unable to understand the act or is unable to communicate or is under undue influence and includes coerced nudity; fondling, touching, or kissing; making the person fondle someone else's genitals; forcing the person to observe sexual acts; photographing the person in sexually explicit ways whether for purposes of gratification or degradation; and sexual assault.

n. "Undue influence" means when a person uses or knowingly assists or causes another person to use that person's role, relationship, or power to exploit the trust, dependency, or fear of an older individual, or uses or knowingly assists or causes another person to use that person's role, relationship, or power to deceptively gain control over an older individual's decision-making process.

2. It shall be unlawful for any person to abuse, emotionally abuse, neglect, isolate, or sexually exploit any older individual.

3. A charge of elder abuse may be initiated as a result of an investigation by a social services agency, or on the direct initiative of the attorney general, a county attorney, or a law enforcement agency.

4. A person who commits a first offense of elder abuse is guilty of the following, as applicable:

a. A person who intentionally commits elder abuse is guilty of a class "C" felony if the intentional elder abuse results in serious injury.

b. A person who recklessly commits elder abuse is guilty of a class "D" felony if the reckless elder abuse results in serious injury.

c. A person who intentionally commits elder abuse is guilty of a class "D" felony if the intentional elder abuse results in physical injury or psychological harm.

d. A person who recklessly commits elder abuse is guilty of an aggravated misdemeanor if the reckless elder abuse results in physical injury or psychological harm.

e. A person who otherwise intentionally commits elder abuse is guilty of a serious misdemeanor.

5. On a second or subsequent offense of elder abuse under [subsection 4](#), paragraph "a", a person commits a class "B" felony.

6. On a second or subsequent offense of elder abuse under [subsection 4](#), paragraph "b" or "c", a person commits a class "C" felony.

7. On a second or subsequent offense of elder abuse under [subsection 4](#), paragraph "d" or "e", a person commits a class "D" felony.

8. It does not constitute a defense to a prosecution for any violation of [this section](#) that the alleged perpetrator did not know the age of the victim.

9. In a criminal action in which an older individual is a victim, the state may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the information or charges at any time.

10. a. A conviction or deferred judgment for or plea of guilty to a violation of [this section](#) which occurred more than twelve years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to [section 907.3](#) for violations of [this section](#), or judgments or deferred judgments issued pursuant to [sections 708.2D](#) and [714.2A](#), and convictions or the equivalent of deferred judgments for violations in any other state under statutes substantially corresponding to [this section](#) shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in [this section](#) and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

11. If a person is convicted or receives a deferred judgment for, or pleads guilty to a violation of [this section](#), the court shall modify the no-contact order issued upon initial appearance in the manner provided in [section 664A.5](#), regardless of whether the person is placed on probation.

12. The clerk of the district court shall provide notice and copies of a judgment entered under [this section](#) to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under [chapter 235F](#). The clerk shall provide notice and copies of modifications of the judgment in the same manner.

[2022 Acts, ch 1132, §4](#)

Referred to in [§13.2](#)

NEW section